

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HALL COUNTY SCHOOL DISTRICT
#40-0002,

Plaintiff,

vs.

DOES 1-10, Real Names Unknown;

Defendant.

4:14CV3100

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion for Leave to Issue Subpoenas, (Filing No. 2). For the reasons set forth below the motion is granted.

Plaintiff's Complaint alleges certain unknown individuals – the Does named as defendants – are using Plaintiff's computer systems without prior authorization. The Plaintiff has been able to ascertain Internet Protocol ("IP") addresses associated with the unauthorized computer system use. Plaintiff is unable to identify the users solely by the IP addresses, but it believes the IP addresses were assigned by Windstream Communications – an internet service provider in Nebraska and other places. Plaintiff now requests permission to serve subpoenas on Windstream in an attempt to identify the proper defendants in this case.

Fed. R. Civ. P. 26(d) provides that a party may not seek discovery until the meeting requirements of Rule 26(f) have been fulfilled unless the court orders otherwise. Courts have discretion to order expedited discovery where good cause is shown such as the case when the defendants have used technology or a third-party to hide their identities. See, e.g., Warner Bros. Records, Inc. v. Does 1-6, 527 F. Supp. 2d 1 (D.D.C. 2007)(allowing third party subpoenas to match IP address and identify the appropriate defendants); see also Arista Records, LLC v. Does 1-30, case no. 4:08cv371, 2008 WL 2740326 (E.D. Ark. June 6, 2008)(same).

In this case, Plaintiff cannot proceed with its case until it receives information identifying the Doe defendants. Expedited discovery is needed under such circumstances. The Plaintiff may serve the requested third-party subpoena for the purpose of identifying the proper defendants in this action.

Accordingly,

Plaintiff's Motion for Leave to Issue Subpoenas, (Filing No. 2), is granted.

Dated this 15th day of May, 2014.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge